

MY DIRECT DIAL IS: (631) 247-4666

MY EMAIL ADDRESS IS: [WILLIAM.KANG@JACKSONLEWIS.COM](mailto:WILLIAM.KANG@JACKSONLEWIS.COM)

May 1, 2023

**VIA ECF**

Honorable Cheryl L. Pollak  
United States District Court, Eastern District of New York  
225 Cadman Plaza East  
Courtroom 13B - South  
Brooklyn, New York 11201

Re: *Fitzgerald v. Sodexo Inc., et al.*,  
Case No.: 22-cv-3410 (AMD) (CLP)

Dear Judge Pollak:

We represent Defendants Sodexo Inc. (“Sodexo”) and NewYork-Presbyterian/Queens, incorrectly sued herein as “NY Presbyterian Queens,” (“NYPQ”) (collectively “Defendants”), in the above-referenced matter. Pursuant to the Court’s Order dated February 15, 2023 (“February 15 Order”), we respectfully submit this status report.

As the Court is aware, the parties were Ordered in the February 15 Order to exchange document requests and interrogatories by March 17, 2023, and to provide responses to the document requests and interrogatories by April 17, 2023.

On March 16, 2023, Defendants served their First Request for Production of Documents and First Set of Interrogatories on Plaintiff Barry Fitzgerald and filed Certificates of Service with the Court. *See* Docket Nos. 22, 23. On March 16, 17 and 19, 2023, Mr. Fitzgerald sent over 120 separate emails to the undersigned attaching and/or containing an assortment of disjointed and largely non-responsive documents and screenshots apparently from his cell phone. Some of the documents and screenshots appear to relate to Mr. Fitzgerald’s employment with Sodexo and Defendants presume the emails and the contents thereof serve as Mr. Fitzgerald’s document production. There are still several document requests to which Mr. Fitzgerald has not provided responsive documents, including requests for authorizations for medical, tax and employment records.

Defendants have not received any document requests or interrogatories from Mr. Fitzgerald.

On March 22, 2023, Defendants served a Notice of Deposition on Mr. Fitzgerald, noticing his deposition for May 17, 2023. However, due to the deficiencies in Mr. Fitzgerald’s discovery

responses discussed herein, Defendants expect to adjourn Mr. Fitzgerald's deposition to a later date.

Mr. Fitzgerald did not serve responses to Defendants' First Set of Interrogatories or provide any additional documents before the April 17, 2023 deadline.

On April 19, 2023, Defendants sent a letter to Mr. Fitzgerald detailing the deficiencies in his discovery responses, including his failure to provide documents responsive to most of Defendants' document requests and failure to provide responses to Defendants' First Set of Interrogatories. Included with that letter was another copy of the Requests and Interrogatories. On Wednesday, April 26, we received 109 additional hard copy pages of documents from Mr. Fitzgerald in the mail, which largely consist of non-responsive information and, importantly, did not contain the requested authorizations or responses to Defendants' interrogatories. We plan to address the deficiencies in Mr. Fitzgerald's discovery responses at the status conference scheduled for May 30, 2023, unless the Court wishes for us to address them sooner.

We thank the Court for its attention to this matter.

Respectfully submitted,

JACKSON LEWIS P.C.

*William Kang*

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cc.: Barry Fitzgerald (via regular mail and email)